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2 WALTER WILHELM LAW GROUP
3 A Professional Corporation
4 Riley C. Walter #91839
5 Danielle J. Bethel #315945
6 205 East River Park Circle, Ste. 410
7 Fresno, CA 93720
8 Telephone: (559) 435-9800
9 Facsimile: (559) 435-9868
10 E-mail: rileywalter@w2lg.com

11 6 Attorneys for Tulare Local Healthcare District,
12 7 dba Tulare Regional Medical Center

8 IN THE UNITED STATES BANKRUPTCY COURT
9 EASTERN DISTRICT OF CALIFORNIA
10 FRESNO DIVISION

11 In re

CASE NO. 17-13797

12 TULARE LOCAL HEALTHCARE
13 DISTRICT, dba TULARE REGIONAL
14 MEDICAL CENTER,

Chapter 9

15 Debtor.

Adv. No.:

**NOTICE OF REMOVAL OF LAWSUIT
PENDING IN STATE COURT TO
BANKRUPTCY COURT (28 U.S.C §
1452)**

15 MAXIM HEALTHCARE SERVICES, INC. a
16 Corporation,

17 Plaintiff,

18 v.

19 HEALTHCARE CONGLOMERATE
20 ASSOCIATES, LLC, dba TULARE
21 REGIONAL MEDICAL CENTER, LLC,

Defendant.

22 TO THE CLERK OF THE ABOVE ENTITLED COURT, AND TO ALL PARTIES IN
23 THE CIVIL ACTION IDENTIFIED HEREIN AND HEREBY REMOVED, THE CLERK OF
24 THE SUPERIOR COURT OF CALIFORNIA IN AND FOR THE COUNTY OF TULARE:

1 PLEASE TAKE NOTICE that Debtor TULARE LOCAL HEALTHCARE DISTRICT,
2 dba TULARE REGIONAL MEDICAL CENTER ("TRMC"), as contractual indemnifier of
3 Defendant HEALTHCARE CONGLOMERATE ASSOCIATES, LLC ("HCCA") in a case
4 brought against it in the Superior Court of California in and for the County of Tulare (the
5 "Superior Court"), does hereby remove the action filed in the Superior Court, identified
6 with more particularity below, to the United States Bankruptcy Court for the Eastern
7 District of California, Fresno Division.

8 1. This Notice of Removal ("Notice") is made in accordance with 28 U.S.C. §§
9 1334(b), 1452(a), 157, and BR 9027 and is based on this Notice and the Exhibit(s)
10 attached hereto and on all of the records and documents filed in the above-entitled matter.

11 2. On September 30, 2017, TRMC commenced proceedings in the United
12 States Bankruptcy Court for the Eastern District of California, Fresno Division, pursuant
13 to Chapter 9 of the Bankruptcy Code, as Case No. 17-13797 (the "Bankruptcy Case").

14 3. On August 10, 2017, prior to TRMC's Bankruptcy Case, Plaintiff Maxim
15 Healthcare Services, Inc.(MHS) initiated a civil lawsuit against HCCA styled *Maxim*
16 *Healthcare Services, Inc. a corporation v. Healthcare Conglomerate Associates, LLC, dba*
17 *Tulare Regional Medical Center, a limited liability company, Case No. VCU270716,*
18 *Tulare County Superior Court* (the "Lawsuit").

19 4. By virtue of the Lawsuit, MHS asserts claims against HCCA for Breach of
20 Contract. TRMC may be obligated to defend and indemnify HCCA against MHS's claims
21 asserted in the Lawsuit.

22 5. 28 U.S.C. § 1452(a) permits removal of any claim or cause of action to the
23 district court for the district where such civil action is pending provided that the such
24 district court has jurisdiction of such claim or cause of action under 28 U.S.C. § 1334.

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1 6. Section 1334(b) provides that district courts have jurisdiction of all civil
2 proceedings related to cases under Title 11. TRMC's Bankruptcy Case arises under Title
3 11 and the Lawsuit is related to the Bankruptcy Case for the reasons described more fully
4 below.

5 7. The test for whether a civil proceeding is related under Section 1334(b) is
6 relatively straight forward. "The usual articulation of the test for determining whether a
7 civil proceeding is related to bankruptcy is whether the outcome of the proceeding could
8 conceivably have any effect on the estate being administered in bankruptcy." In re Fietz,
9 852 F.2d 455, 457 (9th Cir. 1988), quoting Pacor v. Higgins, 743 F.2d 984 (3d Cir. 1984)
10 (overruled on other grounds by Things Remembered, Inc. v. Petraca, 516 U.S. 124
11 (1995)).

12 8. The Bankruptcy Case and the Lawsuit are related because the claim(s)
13 encompassed by the Lawsuit have a clear and direct impact on the bankruptcy estate
14 and will therefore have an effect on the administration of the estate.

15 9. Because the Lawsuit and the Bankruptcy Case are related, pursuant to 28
16 U.S.C. § 1334(b), the United States District Court for the Eastern District of California (the
17 "District Court") has jurisdiction over each and every cause of action asserted in the
18 Lawsuit.

19 10. Further, under 28 U.S.C. § 157 and the general reference of the District
20 Court with respect to bankruptcy matters, the Bankruptcy Court has jurisdiction of the
21 Lawsuit pursuant to 28 U.S.C. § 1334(b).

22 11. The Lawsuit is not a proceeding before the United States Tax Court or a civil
23 action by a governmental unit to enforce such governmental unit's police or regulatory
24 power.

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1 12. Bankruptcy Rule 9027 mandates this Notice be filed with the Bankruptcy
2 Court because it is the Court where the related matter (the Bankruptcy Case) is pending.

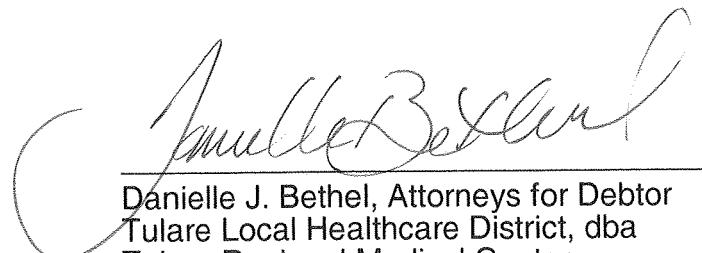
3 13. Upon removal, the action encompassed by the Lawsuit is a core proceeding
4 pursuant to 28 U.S.C. § 157(b)(2), and TRMC consents to entry of final orders or judgment
5 by the Bankruptcy Judge.

6 14. Attached as Exhibit "A" to this Notice are copies of all process, pleadings (as
7 narrowly defined by F.R.C.P. Rule 7(a)) and minute entries and orders filed prior to
8 removal in possession of TRMC as of the date of the filing of this Notice of Removal.

9 15. Promptly after the filing hereof, TRMC's counsel shall file a Notice of
10 Removal with the Clerk of the Superior Court of the State of California, County of Tulare.

11 Dated: April 25, 2018

12 WALTER WILHELM LAW GROUP,
13 a Professional Corporation

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15 Danielle J. Bethel, Attorneys for Debtor
16 Tulare Local Healthcare District, dba
17 Tulare Regional Medical Center